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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

2013 JAN 28 A 11: 54

ARIZONA CORPORATION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 28 2013

DOCKETED BY

*[Signature]*

IN THE MATTER OF THE APPLICATION OF  
SOUTHWESTERN TELEPHONE COMPANY, AN  
ARIZONA CORPORATION, FOR A HEARING  
TO DETERMINE THE EARNINGS OF THE  
COMPANY, THE FAIR VALUE OF THE  
COMPANY FOR RATEMAKING PURPOSES,  
AND TO INCREASE RESIDENTIAL RATES AS  
NECESSARY TO COMPENSATE FOR THE RATE  
IMPACTS OF THE FCC'S USF/ICC  
TRANSFORMATION ORDER.

DOCKET NO. T-01072A-12-0472

PROCEDURAL ORDER

BY THE COMMISSION:

On November 23, 2012, Southwestern Telephone Company ("Southwestern Telephone" or "Company") filed with the Arizona Corporation Commission ("Commission") an application to determine the earnings of the Company, the fair value of the Company for ratemaking purposes, and to increase residential rates as necessary, pursuant to A.R.S. § 40-250 and Arizona Administrative Code R14-2-103, to compensate for the rate impacts of the Federal Communication Commission's ("FCC's") November 18, 2011 Universal Service Fund/Inter-carrier Compensation ("USF/ICC") Transformation Order ("USF/ICC Order").<sup>1</sup> The application requests expedited consideration of its application, with new rates at or above \$14.00 to go into effect no later than June 1, 2013.

On January 22, 2013, the Company filed a Motion for Procedural Order ("Motion"). The Motion requests that a hearing be set on the application, along with associated procedural deadlines,

<sup>1</sup> The USF/ICC Order provides for a transition from former federal universal service programs and most intercarrier compensation systems into a new Connect America Fund ("CAF"). In its USF/ICC Order, the FCC states that by July 1, 2020, intercarrier compensation rates for rate of return companies will be reduced to zero. The recovery from the CAF will phase out over time at 5 percent annually. The USF/ICC Order adds new rules that will reduce federal high-cost carrier loop support to carriers by the amount their flat-rate residential local service rates fall below a specified local service rate floor. The rate floor includes state subscriber line charges, state universal service fees, and mandatory extended area service charges, if any are assessed. The USF/ICC Order establishes those rate floors at \$10.00 as of June 1, 2012, and \$14.00 as of June 1, 2013, with the floor thereafter being determined annually by the FCC's Wireline Competition Bureau.

1 and that the Company be directed to provide public notice of the application and the hearing. The  
2 Motion requests that the hearing schedule be set so as to allow a Commission determination on the  
3 application prior to June 1, 2013, to prevent the Company from experiencing a reduction in its federal  
4 high-cost carrier loop support. The Motion states that counsel for the Company has conferred with  
5 the Commission's Utilities Division ("Staff"), and is authorized to state that Staff supports the  
6 Motion and that Staff is presently working on a Staff Report on the application.

7       It must be noted that while changes in the FCC's inter-carrier compensation systems were set  
8 forth in an FCC Order issued on November 18, 2011, Southwestern Telephone chose not to file this  
9 rate application until November 23, 2012. It is possible that the time needed for a review of the  
10 application necessary to evaluate the rate request and make a fair value finding may preclude a  
11 Commission determination by the date the Company requests.

12       The application has become sufficient pursuant to Arizona Administrative Code R14-2-  
13 103.B.7. It is appropriate to set this matter for hearing at this time. Under the circumstances of this  
14 case, it is appropriate to set a hearing schedule that will allow for a Commission determination on the  
15 application by June 1, 2013. **However, if the evidence provided at the hearing is not sufficient for**  
16 **an evaluation of the rate request, a Commission finding of fair value, and the setting of just and**  
17 **reasonable rates, additional hearing dates will be set as necessary.**

18       IT IS THEREFORE ORDERED that a **hearing** on the application shall commence on **March**  
19 **25, 2013**, commencing at **2:00 p.m.**, or as soon thereafter as practicable, at the Commission's offices,  
20 1200 W. Washington Street, Phoenix, Arizona.

21       IT IS FURTHER ORDERED that the **Staff Report and/or direct testimony**, and associated  
22 exhibits to be presented at hearing on behalf of Staff shall be reduced to writing and filed on or before  
23 **March 14, 2013.**

24       IT IS FURTHER ORDERED that **direct testimony and associated exhibits to be presented**  
25 **at hearing on behalf of intervenors** shall be reduced to writing and filed on or before **March 20, 2013.**

26       IT IS FURTHER ORDERED that **rebuttal testimony and associated exhibits to be**  
27 **presented at hearing by Southwestern Telephone Company** shall be reduced to writing and  
28 **filed on or before March 22, 2013.**

1 IT IS FURTHER ORDERED that all filings shall be made by 4:00 p.m. on the date the  
2 filing is due, unless otherwise indicated above.

3 IT IS FURTHER ORDERED that any objections to testimony or exhibits that have been  
4 prefiled as of March 22, 2013, shall be made at the commencement of the hearing.

5 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
6 lists the issues discussed.

7 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
8 prefiled testimony, with the exception of rejoinder testimony, shall be reduced to writing and  
9 presented at the commencement of the hearing.

10 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the  
11 prefiled testimony of each of their witnesses and shall file each summary at least two working  
12 days before the witness is scheduled to testify.

13 IT IS FURTHER ORDERED that copies of summaries shall be served upon the  
14 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties  
15 of record.

16 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,  
17 except that all motions to intervene must be filed on or before March 8, 2013.

18 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
19 regulations of the Commission, except that any objection to discovery requests shall be made within  
20 5 calendar days of receipt<sup>2</sup> and responses to discovery requests shall be made within 7 calendar days  
21 of receipt. The response time may be extended by mutual agreement of the parties involved if the  
22 request requires an extensive compilation effort.

23 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
24 receiving party requests service to be made electronically, and the sending party has the technical  
25 capability to provide service electronically, service to that party shall be made electronically.

26

27

28 <sup>2</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST will be considered as received the next business day.

1 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
2 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
3 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
4 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
5 that the party making such a request shall forthwith contact all other parties to advise them of the  
6 hearing date and shall at the hearing provide a statement confirming that the other parties were  
7 contacted.<sup>3</sup>

8 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are  
9 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be  
10 deemed denied.

11 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar  
12 days of the filing date of the motion.

13 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the  
14 filing date of the response.

15 IT IS FURTHER ORDERED that Southwestern Telephone Company shall provide public  
16 notice of the hearing in this matter, in the following form and style with the heading in no less than  
17 18-point bold type and the body in no less than 10-point regular type:

18  
19 **PUBLIC NOTICE OF THE HEARING ON THE APPLICATION OF**  
20 **SOUTHWESTERN TELEPHONE COMPANY FOR A**  
21 **DETERMINATION OF THE CURRENT FAIR VALUE OF ITS**  
22 **UTILITY PROPERTY AND FOR AN INCREASE IN ITS RATES**  
**AND CHARGES**  
**(Docket No. T-01072A-12-0472)**

23 On November 23, 2012, Southwestern Telephone Company ("Company")  
24 filed with the Arizona Corporation Commission ("Commission") an  
25 application requesting authority to increase basic local access line rates  
26 from \$11.25 to \$14.00 per month. The application also requests that the  
27 rates for customers who are currently paying \$9.60 per month be increased  
28 to \$14.00 per month.

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<sup>3</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

On November 18, 2011, the Federal Communications Commission ("FCC") issued a comprehensive new Order. Among other things, the FCC's Order establishes that in order for the Company to continue receiving federal support funds, the Company's local residential monthly service rates must be increased to floor rates of at least \$14.00 as of June 1, 2013. Thereafter, the FCC will determine the floor rate annually. If the Company's rates are not increased to the floor rate, the amount of federal support funds the Company receives will be reduced dollar-for-dollar for each customer by the difference between the existing local rate and the new FCC floor rate.

The Commission's Utilities Division ("Staff") is in the process of analyzing the application, and has not yet made any recommendations regarding the Company's proposed rates. The Commission will determine the appropriate relief to be granted based on the evidence presented by the parties. The Commission is not bound by the proposals made by the Company, Staff, or any intervenors. Therefore, the final rates approved by the Commission may be higher or lower than the rates requested by the Company.

#### **How You Can View or Obtain a Copy of the Rate Application**

Copies of the application and proposed rates are available by contacting [Company insert contact information here], at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, 85007, for public inspection during regular business hours, and on the Internet via the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function and Docket No. T-01072A-12-0472.

#### **Arizona Corporation Commission Public Hearing Information**

The Commission will hold a hearing on this matter beginning **March 25, 2013, at 2:00 p.m.**, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted by mailing a letter referencing **Docket No. T-01072A-12-0472** to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services Section at 602.542.4251 or 1.800.222.7000.

Interested parties may participate in this matter through (1) filing for intervention and becoming a formal party to the proceeding; or (2) through written or oral public comment. Any interested person may file written public comments regarding the Company's application in **Docket No. T-01072A-12-0472** at any time.

If you do not intervene in this proceeding, you will receive no further notice of the proceedings in this docket. **However, all documents filed in this docket are available online** (usually within 24 hours after docketing) at the Commission's website [www.azcc.gov](http://www.azcc.gov) using the e-Docket function,

located at the bottom of the website homepage. RSS feeds are also available through e-Docket.

### **About Intervention**

You do not need to intervene if you want to appear at the hearing and provide public comment on the application, or if you want to file written comments in the record of the case.

Any person or entity entitled by law to intervene and having a direct substantial interest in the matter will be permitted to intervene. The granting of intervention entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. **If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission's Docket Control Center no later than March 8, 2013, and send a copy of the motion to the Company or its counsel and to all parties of record.**

Contact information for the Company and parties of record may be obtained using the Commission's e-Docket Function and Docket No. T-01063A-12-0473. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom service of documents is to be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a customer of the Company, a shareholder of the Company, etc.); and
3. A statement certifying that you have mailed a copy of the motion to intervene to the Company or its counsel and to all parties of record in the case.

The granting of motions to intervene is governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before March 8, 2013. For a sample intervention request form, go to <http://www.azcc.gov/divisions/utilities/FORMS/interven.pdf>. All parties must comply with Arizona Supreme Court Rules 31 and 38 and A.R.S. § 40-243 with respect to the practice of law.

**If you do intervene, and wish to present direct testimony and associated exhibits at the hearing, you must, on or before March 20, 2013: (1) reduce your direct testimony and associated exhibits to writing, (2) file the original and 13 copies with the Commission's Docket Control Center by 4:00 p.m., and (3) mail a copy to each party.**

### **Americans with Disabilities Act ("ADA")/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request

reasonable accommodations such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov), voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodations.

IT IS FURTHER ORDERED that Southwestern Telephone Company shall mail to each of its customers a copy of the above notice no later than **February 15, 2013**.

IT IS FURTHER ORDERED that **Southwestern Telephone Company** shall file **certification of mailing** as soon as possible after the mailing has been completed, but **no later than February 22, 2013**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing, notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 Dated this 28th day of January, 2013.

5  
6  
7   
8 TEENA JIBILIAN  
ADMINISTRATIVE LAW JUDGE


9 Copies of the foregoing mailed/delivered  
10 this 28th day of January, 2013 to:

11 Craig A. Marks  
12 CRAIG A. MARKS PLC  
10645 N. Tatum Blvd, Suite 200-676  
13 Phoenix, AZ 85028  
Attorney for Southwestern Telephone Company

14 Janice Alward, Chief Counsel  
15 Charles Hains, Staff Attorney  
16 Brian E. Smith, Staff Attorney  
Legal Division  
17 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007-2927

18 Steve Olea, Director  
19 Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
20 Phoenix, AZ 85007-2927

21 ARIZONA REPORTING SERVICE, INC.  
22 2200 N. Central Ave., Suite 502  
Phoenix, AZ 85004-1481

23  
24 By:   
25 Debbi Person  
Assistant to Teena Jibilian  
26  
27  
28